

Applicants traverse these grounds of rejection since neither reference suggests Applicants' novel method of promoting muscle mass to the detriment of fatty mass by administering the claimed composition to persons in need thereof an effective amount.


The O'Reilly et al patent teaches the use of ginkgo biloba extracts for the treatment of peripheral and cerebral arterial circulation disturbances or for the treatment of illnesses in which platelet activating factor (PAF) plays a role or treating demyelinating neuropathies and cerebral edemas. Moreover, The O'Reilly et al patent relates to a ginkgo biloba extract enriched in flavone-glycosides: In claims 1-3, the content is between 40 and 60% and in examples 3-5, the content is 50%. The extract used according to the present invention has a lower content of flavone glycosides of from 20 to 30%. So, it is not the same composition as the active ingredient is different from the present invention. The Schwabe patent teaches the use of ginkgo biloba extracts for stimulating the circulation of blood, prevention of isochemic disorders and inhibition of platelet aggregation.

As pointed out in the application on page 4, one aspect of the invention is for the patient to lose weight and another aspect is for the patient to gain weight. As shown in the test data on pages 6 and 7, that the claimed method can be used to induce weight loss in warm blooded animals which have a tendency to become obese and to promote muscle mass to the detriment of their fatty mass.

Contrary to the Examiner's allegation, Applicants are not treating the same subjects since the references are treating warm-blooded animals with specific medical conditions while Applicants are treating patients to promote muscle mass to the detriment of fatty mass which is an entirely different class of patient and therefore, Applicants are not treating the same patients for the same effect. The technical result which is to facilitate the muscular mass to the detriment of the fatty mass was well demonstrated in the example in page 6 to 7 of the application. Indeed, rats of laboratory which are old have, because of their captivity, a natural tendency to gain weight. These rats are treated with an extract of Applicant's invention and the rats, after treatment, lost 4% of their body mass and the ratio weight of muscles / total weight of the body is 0.53 for the treated rats: in increase what means that the weight of muscles increased. While rats untreated, continue to gain weight (2,2% of body mass in more) and the ratio weight of muscles / total weight of the body is 0.42: in decrease what means that the rat does not increase the weight of their muscles. Therefore, withdrawal of this rejection is requested.

In view of the amendment to the claims and the above remarks, it is believed that the claims clearly point out Applicant's patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,


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CAM:mlp
Enclosure

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

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